

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

BRODSKY et al.,

Plaintiff,

v.

BMW OF MANHATTAN et al.,

Defendant.

Civ. No. 18-13885 (KM) (JBC)

ORDER

Defendants BMW of Manhattan and BMW of North America (“BMW NA”) having filed a motion (DE 10) to dismiss the complaint;

and the Court, in light of both sides’ submission of documentary evidence, having converted that motion to a motion for summary judgment pursuant to Fed. R. Civ. P. 12(d);

and the Court having denied plaintiffs’ motion to “supplement” the Complaint pursuant to Fed. R. Civ. P. 15(d), because it did not merely update the allegations, but instead purported to substitute wholly distinct and complex facts and causes of action;

and the Court, by Order (DE 27) and Opinion (DE 26) filed on August 15, 2019, having granted the motions for summary judgment as to the moving defendants on *res judicata* grounds, as well as to the remaining defendants, who were in privity and likewise were covered by the prior settlement and release of claims;

and the Court, having been placed on notice by the Rule 15(d) motion that the plaintiffs may have wished to bring additional claims, in an abundance of caution entered the dismissal without prejudice to the filing, within 30 days, of a properly supported motion to amend the complaint (DE 26 at 16; DE 27);

and the Court having received in the interim a decision of the Eastern District of New York (DE 24) revoking Mr. Brodsky's *in forma pauperis* status for failure to disclose assets and income;

and the Court having therefore required Mr. Brodsky to supplement his *in forma pauperis* application in this District with additional information (DE 23);

and the Court having reviewed Mr. Brodsky's supplemental *in forma pauperis* submission (DE 25) and found it unsatisfactory (*see* Opinion, DE 26 at pp. 6–7);

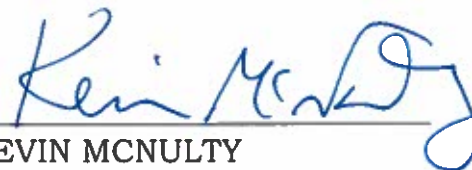
and the Court's Order granting summary judgment having therefore required that any motion to amend, brought within 30 days, "shall be accompanied by a new and more detailed *in forma pauperis* application from Mr. Brodsky, stating all sources of income and documenting them with appropriate financial records" (DE 27);

And the Court, since entering its Order (DE 27) on August 15, 2019, having received neither a motion to amend nor a new *in forma pauperis* application;

IT IS this 9th day of October, 2019,

ORDERED that the Order dismissing the Complaint in its entirety (DE 27) as to all parties and claims is now **with prejudice**.

The clerk shall close the file.



KEVIN MCNULTY
United States District Judge